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LIBERTYVILLE, IL 60048-5343				
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IDOWU, OLUGBENGA O				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/784,581

Applicant(s)

KOTZIN, MICHAEL D.

Examiner

OLUGBENGA O. IDOWU

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Detailed Office Action

Response to Arguments

1. Applicant's arguments with respect to claims 1 - 18 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 – 3 and 6 - 11 and 14 – 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marucs, publication number: US 2002/0092019 in view of Zigmond, patent number: US 6 698 020 B1.

Marcus teaches:

A method of a client device for presenting customized media streams comprising:

receiving a first media content (receiver collects media from first media source-see [0029]) and a first media data (markers-see [0148]) associated with the first media content from a remote server (media streaming servers- [0146]) wherein the first media data indicates at least one insertion point of the first media content (delivered programs has markers indicating appropriate points of insertion of additional programming material –see [0148]); retrieving a second media content

from a local memory of the client device (receiver inserts from memory replacement element - [0214]); and providing a combined media to an output device, wherein the combined media includes the first media content and at least a portion of the second media content inserted at the at least one insertion point of the first media content (the assembled program is displayed- see [0029]).

Marcus does not teach the steps of the media content and the media data being transmitted separately.

In an analogous art, Zigmond teaches wherein media content and media data associated with the media content is being transmitted separately (trigger reception, col. 15, lines 35 – 65, receiving video streams and associated data separately, Fig. 5) Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Marcus by including a system that transmits video streams and data associated with the streams separately for the advantages of making the triggers independent of the streams

Re claim 2, the method of claim 1, further comprising:

receiving the second media content from a remote device (Marucs: secondary content is

received from a third party server – see [0148]) before receiving the first media content and first media data (Marucs: second media content programming can arrive anytime prior to insertion into main program- see [0148]-[0149]) and storing the second media content at the local memory (Marucs: background programming, considered to be secondary content, is saved-[0136]).

Re claim 3, the method of claim 1, wherein providing a combined media to an output device includes providing the combined media to at least one of visual output device and an audio output device (Marucs: combined program is displayed-see [0029]).

Re claim 6, The method of claim 1, further comprising selecting a particular portion of the second media content from a plurality of portions of the second media content (Marucs: receiver selects media elements from media streams for inclusion in the program- see [0038]).

Re claim 7, the method of claim 6, further comprising identifying portions of the second media content having an appropriate length for insertion into a particular insertion point of the first media content (Marucs: Tags address the selection of appropriate content by defining the size and length of present media- see [0396] and [0399]).

Re Claim 8, the method of claim 1, further comprising communicating billing information to a remote billing center in response to providing the combined media to the output device (Marucs: receiver has ability to return a record of programming consumed and or billing information to providers- see [0297]).

For Claim 9, Marcus teaches:

A wireless communication device (cell phone- see [0135]) for presenting customized media streams comprising:
a transceiver (cell phone inherently has transceiver) configured to receive a

first media content and a first media data associated with the first media content from a remote server, wherein the first media data indicates at least one insertion point of the first media content (delivered programs has markers indicating appropriate points of insertion of additional programming material –see [0148]); a processor (cell phone inherently has processor), coupled to the transceiver, configured to retrieve a second media content from a local memory of the client device (see [0141]) ; and an output device, coupled to the processor, configured to provide a combined media including the first media content and at least a portion of the second media content inserted at the at least one insertion point of the first media content (the assembled program is displayed- see [0029]).

Marcus does not teach the steps of the media content and the media data being transmitted separately.

In an analogous art, Zigmond teaches wherein media content and media data associated with the media content is being transmitted separately (trigger reception, col. 15, lines 35 – 65, receiving video streams and associated data separately, Fig. 5) Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Marcus by including a system that transmits video streams and data associated with the streams separately for the advantages of making the triggers independent of the streams

Claim 10 is rejected w/r to claim 2.

Re claim 11, the wireless communication device of claim 9, wherein the output device is at least one of a visual output device and an audio output device (Marucs: display-130 see fig 1).

Claim 14 is rejected w/r to claims 6 and 9.

Claim 15 is rejected w/r to claims 7 and 14.

Claim 16 is rejected w/r to claims as claim 8 and 9.

Re Claim 17, a method of a wireless communication system for supporting a remote device to present customized media streams comprising:
transmitting a first media content to the remote device (secondary media from a third party server [0148]), the first media content including at least a portion configured to be inserted into another media content (insertion [029]); and
transmitting a second media content and a second media data associated with the second media content to the remote device after transmitting the first media content to the remote device (receiving from first media source[0029], markers [0148], content arriving before insertion [0148 - 0149]), wherein the second media data indicates at least one insertion point of the second media content to receive the at least one portion of the first media content (delivered programs has markers indicating appropriate points of insertion of additional programming material –see [0148]).

Art Unit: 2623

Marcus does not teach the steps of the media content and the media data being transmitted separately.

In an analogous art, Zigmond teaches wherein media content and media data associated with the media content is being transmitted separately (trigger reception, col. 15, lines 35 – 65, receiving video streams and associated data separately, Fig. 5). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Marcus by including a system that transmits video streams and data associated with the streams separately for the advantages of making the triggers independent of the streams.

Re claim 18, wherein the first media content and the first media data are received simultaneously (Zigmond: Col. 15, lines 45 - 65)

4. Claims 4- 5 and 12 - 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marucs, publication number: US 2002/0092019 in view of Zigmond, patent number: US 6 698 020 B1 in further view of Zhang, patent number: US 7 096 488 B1.

As per claim 4, the combination of Marucs and Zigmond teach a system video streams with associated data and also data that could be inserted into the video stream.

The combination does not teach the data associated with the video stream signifying the length of the data that could be inserted in the video stream.

In an analogous art, Zhang teaches the reception of data signifying the position and length of avails in video streams (col. 6, lines 9 - 17)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Marucs and Zigmond, as described in Zhang's splicing system, for the advantages of getting commercials that fit available slots without overlapping with the video stream or leaving dead spots.

Re claim 5, the method of claim 4, wherein:

receiving a first media content and a first media data associated with the first media content from a remote server includes receiving the first media data before receiving the first media content (Zigmond: receiving different kinds of data associated with each other, reception being one before the other, Fig. 5, col. 16, lines 20 - 29, col. 15, lines 56 - 65) ; and the second media content is retrieved from the local memory in response to receiving the first media data and irrespective of receiving the first media content (Marucs: advertising elements have the ability to deploy themselves independent of any streamed programming-[0101]).

Claim 12 is rejected with w/r to claim 4.

Claim 13 is rejected w/r to claim 5.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 2003/0056010 Kaars.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **OLUGBENGA O. IDOWU** whose telephone number is (571)270-1450. The examiner can normally be reached on Monday to Friday, 7am - 5pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendelton can be reached on 571 272 7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2623

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Olugbenga O Idowu/
Examiner, Art Unit 2623

/Annan Q Shang/
Primary Examiner, Art Unit 2623